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In re Application of
NG et al. :
Application No.: 10/510,641 :
PCT No.: PCT/SG03/00011 :
Int. Filing Date: 20 January 2003 : DECISION
Priority Date: None :
Atty. Docket No.: 3225-103 :
For: TITANIUM UNDERLAYER FOR
LINES IN SEMICONDUCTOR
DEVICES

This decision is issued in response to applicants' "Request for Corrected Filing Receipt" filed on 06 April 2005 and applicants' "Renewed (Second) Request for Corrected Filing Receipt" dated 09 August 2006. No petition fee is due.

BACKGROUND

On 20 January 2003, applicants filed international application PCT/SG03/00011 which no claimed priority date. A copy of the international application, which included a copy of the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase, was communicated to the United States Patent and Trademark Office from the International Bureau on 05 August 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 20 July 2005.

On 08 October 2004, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; and a preliminary amendment. Applicant did not mark Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)."

On 08 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 08 October 2004 and a 35 U.S.C. 371 completion date of 08 October 2004.

On 06 April 2005, applicants filed "Request for Corrected Filing Receipt."

On 09 August 2006, applicants filed "Renewed Request for Corrected Filing Receipt."

DISCUSSION

A. Official Filing Receipt

Applicant states in their present request(s) that "the Official Filing Receipt for the above-identified application has the 35 U.S.C. 371(c) date listed as 08 October 2004, however, the declaration for this application was not filed until 04 March 2005." As stated above, the basic national, a copy of the international application, and an executed declaration furnished by the International Bureau under PCT Rules 4.17(iv) and 51bis.1(a)(iv) was received in the USPTO on 08 October 2004. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 04 March 2005 is not proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 08 October 2004. (See MPEP section 1893.03(b)).

B. Notification of Acceptance

The Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) indicates the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements and it also indicates the date of completion of all 35 U.S.C. 371 requirements. MPEP §1893.03(b) states that the date of completion of all 35 U.S.C. 371 requirements will be later than the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) when a request for early processing has not been requested prior to 30 months from the priority date. Here, applicants submitted the basic national fee; a copy of the international application; and an executed Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America on 08 October 2004 which are the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). However, applicant did not check Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)" and therefore, national stage processing or the date of completion of all 35 U.S.C. 371 requirements could not begin prior to 30 months from the international filing date, 20 July 2005. Therefore, a corrected Notification of Acceptance will be issued which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 08 October 2004 and a 35 U.S.C. 371 completion date of 20 July 2005.

CONCLUSION

Applicant's request for a corrected filing receipt is DISMISSED without prejudice.

Applicants' request for the issuance of a corrected Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 is GRANTED in part.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 08 March 2004 is hereby VACATED.

The application has an international filing date of 20 January 2003 under 35 U.S.C. 363 and a date of **08 October 2004** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 08 October 2004 and a 35 U.S.C. 371 completion date of 20 July 2005.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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